

FIDUCIARY BOARD

Meeting Agenda – Thursday, January 11, 2018

Arizona Supreme Court -1501 West Washington Street

Phoenix, Arizona 85007 - 10:30 A.M. Conference Room 109

General Inquiries Call: 602-452-3378 (Certification and Licensing Division Line)

Members of the Public May Attend Meeting in Person

For any item listed on the agenda, the Board may vote to go into Executive Session for advice of counsel and/or to discuss records and information exempt by law or rule from public inspection, pursuant to the Arizona Code of Judicial Administration, Code Section 1-202(C).

CALL TO ORDER *Deborah Primock, Chair*

1) REVIEW AND APPROVAL OF MINUTES..... *Deborah Primock, Chair*

1-A: Review, discussion and possible action regarding the regular session minutes of the interim meeting held on October 3, 2017.

1-B: Review, discussion and possible action regarding the regular session minutes of the meeting held on November 16, 2017.

1-C: Review, discussion and possible action regarding the regular session minutes of the interim meeting held on December 4, 2017.

2) PENDING COMPLAINTS..... *Division Staff*

2-A: Review, discussion and possible action regarding complaint number 16-0018, involving licensee, Patricia Flores.

2-B: Review, discussion and possible action regarding complaint numbers 17-0018, 17-0019 and 17-0020, involving licensees Ayudando Alpha, Inc. and Bradley Torch.

2-C: Review, discussion and possible action regarding complaint number 17-0015, involving licensee Krista Cline.

2-D: Review, discussion and possible action regarding complaint numbers 17-0016 and 17-0017, involving licensees Arizona Department of Veterans Services and Lori Braddock.

3) INITIAL LICENSURE AND ELIGIBILITY.....Division Staff

3-A: Review, discussion and possible action regarding the following applications for initial individual and business licensure:

- 1. Meagan Adams
- 2. Ruth Covey
- 3. Karen Kochhar
- 4. Cherie Olivas
- 5. Nicole Surran
- 6. Pablo Valencia
- 7. Premier Fiduciary Services, LLC (Designated Principal Kurt Tittelbach)
- 8. Kile & Kupiszewski Law Firm, LLC (Designated Principal Emily Kile)
- 9. Elizabeth Posey
- 10. Tamara Varga
- 11. Singer Management Services, LLC (Designated Principal Jane Singer)
- 12. Pam Smith

4) RENEWAL OF LICENSURE APPLICATIONS..... Division Staff

4-A: Review, discussion and possible action regarding the application for renewal of individual licensure for Patricia Hall.

5) ADMINISTRATIVE ISSUES Division Staff

CALL TO THE PUBLICDeborah Primock, Chair

ADJOURNDeborah Primock, Chair

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1) REVIEW AND APPROVAL OF MINUTES

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1) REVIEW AND APPROVAL OF MINUTES

I-B: Review, discussion and possible action regarding the regular session minutes of the interim meeting held on November 16, 2017.

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1) REVIEW AND APPROVAL OF MINUTES

I-C: Review, discussion and possible action regarding the regular session minutes of the interim meeting held on December 4, 2017.

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2) PENDING COMPLAINTS

2-A: Review, discussion and possible action regarding complaint number 16-0018, involving licensee, Patricia Flores.

By way of background, following litigation between Complainant, Patricia Bartholomew (“Bartholomew”) and her siblings, Warren Bartholomew, Russell Bartholomew, and Gerald Bartholomew (“Brothers”), the parties stipulated to a Settlement Agreement (“Agreement”) executed on or about January 22, 2016, and filed in Superior Court on or about February 12, 2016.

Per the terms of the Agreement, licensed fiduciary, Patricia Flores (“Flores”) was appointed Successor Trustee of the Dorothy Roberson Revocable Living Trust (“Roberson Trust”) on February 12, 2016, succeeding Bartholomew as Trustee.

Bartholomew and the Brothers are the entitled beneficiaries of the Roberson Trust, per the terms of the Agreement, which super-ceded any terms of the Roberson Trust should any conflict exist between the two documents.

On November 7, 2016, the Certification and Licensing Division (“Division”) received a written Complaint against Patricia Flores, containing the following allegations:

1. Patricia Flores did not timely administer the Roberson Trust despite the executed Settlement Agreement.
2. Patricia Flores was not truthful because she denied having knowledge of information she had been provided.
3. Patricia Flores refused to provide her fiduciary license number or the State Bar license number of her attorney when requested to do so by Complainant.

Please review the Investigation Summary and Allegation Analysis Report for full details on the facts of the investigation. As detailed in the afore-mentioned report, the Division’s investigation determined that Flores did not timely administer the Trust, evidenced by a review and analysis of the following distribution of assets:

1. Mercedes Automobile
2. San Carlos Place Property
3. Alvernon Way Property
4. U-Haul Storage and contents
5. Annual Accounting

In the above-referenced partial distribution of assets, Flores protracted the process by not acting expeditiously. The following is a brief synopsis:

1. Transferring title/ownership of the Mercedes was an easy and straightforward process. Nothing precluded Flores from transferring title/ownership to the entitled beneficiary, yet it took over five months for her to do so, from the time of Flores' appointment on February 12, 2016, to when she completed the transfer of the vehicle on or about August 3, 2016.
2. Regarding transfer of title of the real properties, San Carlos Place and Alvernon Way, Flores did not initiate contact with a title company until on or about June 14, 2016, and Flores did not get the title company the required documentation until on or about July 26, 2016. The referenced properties were transferred to the entitled beneficiaries on or about October 4, 2016.

In addition, it is questionable whether title searches were even necessary in this matter. Flores, per the terms of the Agreement, was required to transfer title of the real properties from the Roberson Trust to the entitled beneficiaries. None of the transactions involved a sale of the properties.

3. The U-Haul storage unit contained numerous pieces of artwork that were entitled to the Brothers. Flores completed this distribution of assets on or about September 27, 2017. Her primary responsibility, in addition to initially securing the keys to the storage unit from Bartholomew's attorneys and paying the monthly rental fee, was to timely surrender the keys of the storage unit to the Brothers and/or their attorneys. Flores completed an inventory of the artwork on or about May 20, 2016, and she submitted the pictures of her inventory to the Brother's legal counsel on or about August 24, 2017. Sometime afterward, the Brothers raised concerns because it appeared to them that two pieces of art were missing, based on the inventory that they had previously completed. On September 24, 2016, Flores returned to the storage unit and retook pictures of all contents thereby redoing her inventory. After doing so, it was determined that nothing was missing.
4. Regarding the annual Roberson Trust accounting, Flores was required provide, "at least annually," an accounting to the entitled beneficiaries, pursuant to Arizona Revised Statutes § 14-10813(C). Therefore, Flores was obligated to provide the accounting on or about February 12, 2017, one year after she was appointed Successor Trustee. On or about August 3, 2017, Division staff requested a copy of the Roberson Trust accounting for review. Around that time, Flores, per her attorney, indicated that she had not completed her annual accounting and she submitted the requested documentation to the Division on or about August 29, 2017.

The accounting provided by Flores covered the period from May 1, 2016, through July 31, 2017. However, Flores failed to provide accounting from February 12, 2016, when she was appointed, to April 30, 2016.

Flores told Division staff that she did not have access to the Roberson Trust assets until after May 26, 2016, and that former Trustee, Bartholomew, continued to negotiate checks on behalf of the Roberson Trust until May 26, 2016. Therefore, Flores did not timely marshal and protect the bank accounts associated with the Roberson Trust.

In summary, the afore-mentioned transactions revealed that Flores generally failed to take timely action delaying expeditious administration of the Roberson Trust.

Presently, the Roberson Trust has not been closed because Flores is still addressing the issue of trust taxes.

Recommendations:

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Patricia Flores has committed the alleged act(s) of misconduct as detailed in Allegation 1 of the Investigation Summary and Allegation Analysis Report in complaint number 16-0018.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Patricia Flores has not committed the alleged act(s) of misconduct as detailed in Allegation 2 and 3 of the Investigation Summary and Allegation Analysis Report in complaint number 16-0018.

It is recommended that the Board dismiss without prejudice Allegations 2 and 3.

It is further recommended the Board enter a finding grounds for formal disciplinary action exists as to Allegation 1 pursuant to Arizona Code of Judicial Administration (“ACJA”) § 7-201(H)(6)(a) and (k)(7) and (8) for act(s) of misconduct involving failure to timely administer the trust as described in the Investigation Summary and Allegation Analysis Report in complaint number 16-0018.

It is further recommended the Board issue a Censure concerning Allegation 1.

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2) PENDING COMPLAINTS

2-B: Review, discussion and possible action regarding complaint numbers 17-0018, 17-0019 and 17-0020, involving licensees Ayudando Alpha, Inc. and Bradley Torch.

On August 16, 2017, the Fiduciary Board (“Board”) accepted the findings of the Probable Cause Evaluator in Complaint Numbers 17-0018 17-0019, and 17-0020, and found that the actions of Ayudando Alpha, Inc., (“Ayudando”) and Bradley Torch (“Torch”) were harmful and detrimental to the public health, safety, and welfare. On that date, the Board issued an Emergency Summary Suspension of the fiduciary licenses of Ayudando and Torch. An expedited hearing was held on August 24, 2017, and the Honorable William O’Neil upheld the Emergency Summary Suspension.

Notwithstanding Torch’s statements to Division staff that he would cooperate with the Division’s ongoing investigation, he did not cooperate, evidenced by the following timeline:

- **August 29, 2017:** The Division sent Torch an email requesting a copy of all documents which he previously told Division staff that he had in his possession and control and/or could obtain:
 - (i) a list of clients who had money removed from their accounts along with bank statements;
 - (ii) electronic and possible other correspondence between yourself and Ayudando Alpha/Guardians, Inc. regarding the missing money;
 - (iii) correspondence with representatives from Arizona Bank and Trust and/or other financial institutions regarding the restricted account and missing money;
 - (iv) a Restraining Order served upon you by the United States Marshal Service.

The Division requested the documentation by no later than end of business, September 6, 2017, unless Torch contacted the Division by September 5, 2017, requesting additional time to provide those records.

- **September 8, 2017:** The Division sent a follow up email to Torch informing him that the Division had no record of any communication from him regarding the requested records and information in his possession and control. The Division also requested copies of Exhibits A through D, which Torch previously referenced in an August 23, 2017, email to the Division but that were not included in his correspondence of the same date.

On September 8, 2017, Torch provided the Division documents he marked as Exhibits A through D, which he initially referenced and stated were attached in his letter of August 23, 2017.

More detail on the content of the referenced Exhibits A through D is available in the Investigation Summary and Allegation Analysis report.

▪ **September 13, 2017:** The Division sent Torch an email requesting the following additional records and information:

- (i) Please confirm the emails and possibly other correspondence between you and representatives from Ayudando Alpha Inc., and/or Arizona Bank and Trust regarding Arlene Arvizu's account and the Court-imposed restriction of that account and missing money, represents the full record of that correspondence. If it does not, please forward any electronic and possibly other correspondence to the Division without delay.
- (ii) Please confirm the emails and possibly other correspondence between you and representatives from Ayudando Alpha, Inc. regarding clients and missing money, represents the full record of correspondence. If it does not, please forward any electronic and possibly other correspondence to the Division without delay.

In addition to what you have already provided, the Division is requesting:

- (i) A full list of all Arizona clients who had money removed from their accounts along with bank statements;
- (ii) The names and contact numbers for all staff members employed by Ayudando Alpha, Inc., who were under your supervision during the time you were conducting business as a licensed fiduciary.

You have stated that there may be certain records that you do not have in your possession. Because you are responsible for retaining clients' records, the Division is requesting that you:

- (i) Make a formal request to and obtain from the United States Marshal Service/United States Attorney's Office any records not in your control and possession regarding a list of clients who had money removed from their accounts, along with bank statements;
- (ii) Forward to the Division correspondence you send to the United States Marshal Services/United States Attorney's Office regarding a request for records
- (iii) Forward to the Division correspondence you receive from the United States Marshal Services/United States Attorney's Office

Please provide the requested documentation by no later than September 27, 2017. If you require additional time to provide the documentation, please contact me before September 27, 2017, and provide a reason for extension and the length of time required.

- **October 2, 2017:** Division staff followed up with Torch informing him that the Division had no record of him providing the requested documentation nor any record of any communication from him indicating that additional time was needed.

On the same date, Torch replied stating, "...with all due respect, I have not had the time or the resources to fulfill these requests." He further stated that he is working two jobs to support his family and he did not have the financial resources to obtain counsel to assist in this matter. Torch blamed his former supervisor's actions for tarnishing his reputation in the State of Arizona and he asserted that he did not foresee being able to obtain employment as a fiduciary any longer. Torch added, "Thus, rather than continue my fight, I would like to withdraw my licensure permanently. Please let me know what process I need to follow in order to do so."

Given Torch's comments and request to withdraw his licensure, the Division discussed a possible consent agreement in which Torch would have to agree to revocation of his fiduciary license. However, Torch replied stating, "...unfortunately, I would not be willing to sign a revocation or any other document that implies any guilt on my part. You are more than welcome to continue your investigation, as I am confident that you will find that I did not act in an unfaithful or careless manner in my responsibilities as a fiduciary."

- **October 3, 2017:** The Division sent Torch a letter of the same date and emailed him a copy of that letter. The letter cited ACJA §7-201(H)(6)(c) regarding grounds for discipline for failing to cooperate with or supply information to Division staff and the Board. In addition, given Torch's statements that he did not have time or the resources to fulfill the Division's request, Torch was informed that the Division viewed his statements as a refusal to cooperate and informed him that if he changed his mind and was willing to furnish those records and information, to confirm the date by which he reasonably expected that he would provide the requested documentation and information.

The Division further wrote:

Lastly, the Division would like to interview you and ask that you identify suitable dates and time over the next several weeks. If we do not hear back from you regarding the request for records and information or your availability for interview, the Division will consider that as a further refusal to cooperate with the investigation.

- **October 18, 2017:** The Division sent Torch a follow up letter of the same date and emailed him a copy of the said letter. Pertinently:

The Division sought, from you, verification of a date by which you reasonably expected to provide the requested documentation. Please know that to date, the Division has no record of any communication from you regarding the request for records and information or your availability for an interview.

As you know, the Division's investigation into the Complaint against your fiduciary license is ongoing and has not been completed.

The Division is requesting an interview with you between the weeks of October 23, 2017 – November 3, 2017.

If the Division does not hear back from you regarding your availability for interview, the Division will consider that as a further refusal to cooperate with the investigation.

To date, the Division has no record of Torch providing any of the requested documentation nor verification that he made any request for records not in his possession and control. In addition, Torch has not contacted the Division regarding his availability for interview.

The Division has made efforts to obtain records and information regarding Ayudando's Arizona clients from the United States Marshals Service and United States Attorney's Office because the Division was led to believe that this information would be available by request. However, neither of the afore-mentioned government agencies furnished any of the records requested.

Ayudando has not responded to the Complaint against its license.

Recommendations:

Ayudando Alpha, Inc.

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Ayudando Alpha, Inc. has committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint numbers 17-0018, 17-0019 and 17-0020.

It is recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) for act(s) of misconduct involving: (i) ACJA §§ 7-201(F)(4), 7-201(H)(3)(c)(1), 7-201(H)(6)(a) and (k)(2),(6), (7), (8) and (12); 7-202(J)(1)(a) and (b); 7-202(J)(2)(a) and (b)(1); 7-202(J)(5)(h); A.R.S. § 13-1801(A)(12) and (13) and A.R.S. § 13-1802(A)(1) and (2). As further described in the Investigative Summary, Ayudando Alpha, Inc. violated these provisions by (a) committing mail fraud, aggravated identity theft, and money laundering; (b) failing to marshal and secure the property and income of a protected person; (c) failing to comply with a Superior Court Order to file proof of restriction of a protected person's account and withdrew money from that restricted account without the Court's approval and (d) failing to respond to the Complaint against its licensure.

It is further recommended the Board revoke Ayudando Alpha, Inc.'s license.

It is further recommended that all other complaints concerning Ayudando Alpha, Inc. be held in abeyance.

Bradley Torch

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Bradley Torch. has committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint numbers 17-0018, 17-0019 and 17-0020.

It is recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) for act(s) of misconduct involving: (i) ACJA §§ 7-201(E)(2)(c)(2)(b)(i) by committing material misrepresentation and dishonesty on his initial fiduciary license application; (ii) ACJA § 7-201(E)(2)(c)(2)(b)(xiv) for making false or misleading statements to the Division in support of his application for licensure; (iii) 7-201(H)(6)(a), (h) and (k)(2),(6), (7), and (8); 7-202(J)(1)(a) and (b); 7-202(J)(2)(a); 7-202(J)(3)(e); 7-202(J)(5)(j); A.R.S. § 13-1801(A)(12) and (13) and A.R.S. § 13-1802(A)(2) by failing to marshal and secure financial assets of a protected persons estate; (iv) ACJA § 7-202(H)(6)(a) and (k)(2) by failing to timely comply with a court order to file proof of a restricted account; (v) ACJA § 7-202(J)(1)(a) and (F)(10) by failing to report to the Division or Board the federal indictment naming Ayudando Alpha, Inc., (vi) ACJA § 7-201(H)(6)(a) and (c) and 7-202(J)(1)(a) for failure to cooperate with the Division's investigation. The forgoing is all further described in the Investigative Summary.

It is further recommended the Board revoke Bradley Torch's license.

It is further recommended that all other complaints concerning Bradley Torch be held in abeyance.

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2) PENDING COMPLAINTS

2-C: Review, discussion and possible action regarding complaint number 17-0015, involving licensee, Krista Cline.

The Certification and Licensing Division (“Division”) learned that, on or about September 16, 2017, Detective Todd Swaim (“Detective Swaim”) of the Yavapai County Sheriff’s Office (“YCSO”) arrested Krista Cline (“Cline”) on charges of fraud schemes and theft involving people for whom she had a fiduciary responsibility.

The Division conducted a preliminary investigation to determine whether probable cause existed to warrant a summary suspension.

On September 19, 2017, Probable Cause Evaluator, Karl Heckart, on behalf of Mike Baumstark, entered a finding probable cause exists in complaint number 17-0015 as to the allegations set forth in the Initial Summary and Allegations Analysis Report.

On September 20, 2017, the Fiduciary Board (“Board”) convened to consider Division staff’s preliminary investigation. The Board accepted the finding of the Probable Cause Evaluator in complaint number 17-0015. The Board entered a finding the public health, safety or welfare is at risk and requires emergency action and ordered an immediate emergency summary suspension of individual licensure for Cline, pursuant to ACJA § 7-201(H)(9)(d).

On September 20, 2017, immediately following the Board meeting, Division staff hand-delivered a written request for documents to Cline. The letter gave Cline two weeks to produce the records, consistent with her oral representations regarding the amount of time she would need to comply. Cline stated that she was able and willing to timely provide the requested documentation. Although Cline emailed Division staff a list of clients, she failed to provide any of the other documents sought.

Division records showed that on September 26, 2017, Cline was served with the Emergency Summary Suspension Order and Notice of Expedited Hearing.

On September 28, 2017, an emergency hearing was held before Presiding Disciplinary Judge, The Honorable William O’Neal. Cline did not appear. Judge William O’Neil upheld the summary suspension.

Current Issues:

Cline was arrested by the YCSO on December 4, 2017, on further charges including fraud and theft, related to clients for whom Cline had a fiduciary relationship. The YCSO’s investigation determined that Cline excessively paid herself more than \$38,000.00 for services and fraudulently transferred an additional \$33,00.00 to personal bank and credit card accounts and

withdrew \$1,600.00 in cash for personal use. In addition, the YCSO's investigation determined that Cline transferred \$2,000.00 from a client's special needs trust into Cline's personal and credit card account.

Background

Adult Protective Services ("APS") filed a complaint with the Division against Cline for failing to provide records in her possession and control regarding allegations of financial exploitation of one of Cline's clients and for which Cline was implicated. In addition to filing a complaint with the Division, APS filed a complaint with the YCSO.

The Division learned that, on or about September 16, 2017, YCSO's Detective Swaim arrested Cline on charges of fraud schemes and theft. Detective Swaim's investigation determined that Cline inappropriately placed \$16,500.00 into an account of a client (subject of the APS investigation) and that the funds came from another client's account although that individual was deceased. Detective Swaim also found that Cline inappropriately transferred as much as \$76,000.00 from the decedent's account and \$34,000.00 was after the person passed away.

From September 2016 through May 2017, Cline transferred the following funds from the deceased client's accounts:

- \$45,388.00 to Essential Fiduciary Services pre-death and \$11,854 post death for a total \$57,242.00
- \$6,939.00 to Chase credit card belonging to Cline pre-death and \$5,735.00 post death for a total of \$12,674.00
- \$16,500.00 to a trust

Cline has a business interest in Essential Fiduciary Services, LLC and Essential Designs, LLC. Detective Swaim also reported that between January 2016 and March 2017, Cline transferred \$69,782.00 from a trust into various business accounts owned by Cline, fiduciary or otherwise; a bank account in the name of Cline and her husband, credit card in Cline's name and a credit card in an unknown name.

- \$28,609.00 to Essential Fiduciary Services LLC
- \$16,160.00 to a Chase "Liquid" card used by beneficiary of the trust
- \$1,875.00 to Essential Designs LLC
- \$6,500.00 to a Morgan or Krista Cline joint account
- \$7,438.00 to a Chase credit card in the name of Cline
- \$3,700.00 to a Chase credit card in an unknown name

Detective Swaim indicated that the funds transferred from the referenced accounts into Cline's accounts were not used to benefit either victim and were personally used by Cline and/or her husband. According to Detective Swaim, total theft from the two clients above and beyond Cline's fiduciary fees was approximately \$107,038.00. Cline has not refuted or explained the transfers.

Prior to Cline's arrest, Detective Swain asked her to provide him with a copy of her invoices from April 2016 through April 2017. Although she indicated that she would cooperate and provide those records, Cline refused to produce the invoices and told Detective that she never intended to produce them.

Cline was interviewed by Division staff on September 19, 2017 at which time she indicated that she would cooperate and produce all records pertinent to this case, but to date the Division has no record of Cline producing any records. In the interview, Cline reported that the monetary figures provided by Detective Swain were accurate and she did not dispute the amounts. She asserted that given an opportunity she would explain all transfers. To date, Cline's explanation has not been forthcoming.

Recommendation:

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Krista Cline has committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint number 17-0015.

It is recommended the Board enter a finding grounds for formal disciplinary action exists pursuant to Arizona Code of Judicial Administration ("ACJA") § 7-201(H)(6)(a) for act(s) of misconduct involving: (i) ACJA §7-201(H)(6)(a) and A.R.S. § 46-454 for refusal to provide records to Adult Protective Services; (ii) AJCA §§ 7-201(H)(6)(a),(h) and (k)(6), (7) and (8); 7-202(J)(1)(a); 7-202(J)(2)(a), (b)(1) and (d); 7-202(J)(3),(5) and (7); A.R.S. § 13-1801(A)(12) and (13); A.R.S. § 13-1802(A)(1) and (2); and A.R.S. § 46-456 for mismanaging or misappropriating client funds and acting in an unprofessional manner; (iii) ACJA §§ 7-201(H)(6)(a) and (c); 7-202(J)(1)(a), and 7-202(J)(7) for failing to cooperate with the investigation; and (iv) ACJA §§ 7-201(H)(6)(j) and 7-201(E)(2)(c)(2)(b)(ii) and (xix) for making false statements to the Division.

It is further recommended the Board and revoke the license of Krista Cline.

It is further recommended that all other complaints concerning Krista Cline be held in abeyance.

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2) PENDING COMPLAINTS

2-D: Review, discussion and possible action regarding complaint numbers 17-0016 and 17-0017, involving licensees Arizona Department of Veterans Services and Lori Braddock.

On July 18, 2017, Division received a complaint that after selling a vehicle to the complainant back in 2013, ADVS never transferred the full title to him. Complainant bought the car from his father, who at the time was under guardianship with ADVS, and when he went to re-register the car was informed by Texas DMV he did not hold the legal title. The matter was investigated and it was later determined there was no apparent fault on the part of ADVS.

Recommendation:

It is recommended the Board accept the finding of the Probable Cause Evaluator and enter a finding Lori Braddock/ADVS have not committed the alleged act(s) of misconduct as detailed in the Investigation Summary and Allegation Analysis Report in complaint numbers 17-0016/0017.

It is further recommended the Board dismiss complaint numbers 17-016/0017 without prejudice.

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3) INITIAL LICENSURE AND ELIGIBILITY

3-A: Review, discussion and possible action regarding the following applications for initial individual and business licensure:

The following applicants have applied for initial fiduciary licensure. The applicants successfully passed the program examination and have submitted completed applications demonstrating that they meet the minimum education and experience requirements and all applicants have completed the required fiduciary professional training.

The Division recommends approval of initial fiduciary licensure for the following applicants:

1. Meagan Adams
2. Ruth Covey
3. Karen Kochhar
4. Cherie Olivas
5. Nicole Surran
6. Pablo Valencia
7. Premier Fiduciary Services, LLC (Designated Principal Kurt Tittelbach)
8. Kile & Kupiszewski Law Firm, LLC (Designated Principal Emily Kile)

9. Elizabeth Posey applied for initial fiduciary licensure. The applicant successfully passed the program examination and has submitted a complete application demonstrating that she meets the minimum education and experience requirements. The applicant has also attended the fiduciary professional training. Ms. Posey disclosed two dissolutions of marriage, a 1995 bankruptcy that contained no adversarial proceedings and three judgement cases that have since been dismissed or received a satisfaction of judgment. These judgement cases occurred in the years 2009, 2010 and 2014. Ms. Posey also disclosed a 2010 order of protection in which she was named as the defendant. Ms. Posey stated the order of protection was imposed on her by a former significant other with whom she shared a daughter. Ms. Posey stated that the incident occurred when the plaintiff said some rude things to their daughter and she retaliated as a “mother” and said some things back that included foul language. Nothing described in the order of protection or in the Division interview with Ms. Posey alluded to any threats of violence and the order ran its course and was never renewed.

Division recommends initial fiduciary licensure be granted for Elizabeth Posey.

10. Tamara Varga applied for initial fiduciary licensure. The applicant successfully passed the program examination and has submitted a complete application demonstrating that she meets the minimum education and experience requirements. The applicant has also attended the

fiduciary professional training. Ms. Varga disclosed two 1998 orders of protection, a 2009 bankruptcy that contained no adversarial proceedings and two misdemeanor charges that occurred while she was a minor that have since been expunged. In the 1998 orders of protection, Ms. Varga stated she had put an order of protection against the mother of a former boyfriend after she had been threatened with violence and in retaliation the defendant placed one on her as she was calling her home to speak to her boyfriend. The order of protection ran its course and was never renewed.

Division recommends initial fiduciary licensure be granted for Tamara Varga.

11. Singer Management Services, LLC applied for initial fiduciary licensure. The Designated Principal is Jane Singer and the business is currently in Good Standing with the Arizona Corporate Commission. Singer Management Services, LLC failed to disclose a 2017 Pima County Superior Court case in which Singer Management Services, LLC and Jane Singer were listed as Defendants with allegations of financial misconduct and a breach of contract with a former business partner. A settlement agreement was reached and the case was ultimately dismissed with prejudice. Ms. Singer stated "The reason I had not disclosed this on the application was apparently my misunderstanding. I responded NO to the questions because it never went into litigation, and was settled."

Division recommends initial fiduciary licensure for Singer Management Services, LLC with Non-Disclosure Language.

12. Pam Smith applied for initial fiduciary licensure. Pamela Ann Smith is also known as Pam Hesse, Pamela Ann Hesse, Pamela Ann Cohee and Lynnell Carolyn Armstrong ("Smith"). Smith listed aliases of Cohee and Hesse, but did not list Armstrong. The application had several deficiencies.

On December 8, 2016 Staff sent Smith a new application because Section III was not completely filled out. On December 14, 2016 Staff sent Smith a request for proof of education. On December 29, 2016 Staff talked to Smith on the phone concerning application deficiencies. The Director agreed to hold this application open, at the applicant's request. Smith did not answer three questions on the application. Smith did not supply evidence she completed High School. Smith did not submit an affidavit and the fingerprints revealed significant history. In addition, Smith did not meet the experience requirement until July 7, 2017.

Smith did not answer the last three questions in Section III – Eligibility part of the application. The questions were:

- I have not been convicted of a felony.
- I attest I have not been found civilly liable in an action involving fraud, misrepresentation, material omission, misappropriation, theft or conversion.
- Have you ever acted as a fiduciary in any other state? If "yes," state dates and location.

Subsequent to being provided a new application, Smith admitted being convicted of a felony. Smith also admitted to being found criminally liable in an action involving fraud, misrepresentation, material omission, misappropriation, theft or conversion.

On January 10, 2017 Staff told Smith in a letter that her fingerprints came back with a criminal history. Staff had not received an affidavit, but had to ask about Smith's past. The affidavit should have been submitted with Smith's application. Staff asked Smith about her use of different alias'. Staff also asked if Smith had ever been charged with possession, burglary, theft or DWI, and if so, to provide an affidavit stating this.

On March 14, 2017 Smith provided an affidavit in response to the January 10, 2017 letter. Smith said she requested and received her own FBI report. Smith addressed items she needed to disclose:

Affidavit Disclosure 1) Smith disclosed a 11/14/1980 marijuana conviction in San Diego where she served 12 days confinement and 36 months SP.

Affidavit Disclosures 4), 5), and 6) Smith admitted to theft in 1989 in her affidavit, including a petty theft conviction in disclosure four (4).

Affidavit Disclosure 8) Smith admitted, on 12/6/1997, "Driving while intoxicated with my son in the vehicle. DWI and Endangering the welfare of a Minor. I voluntarily enrolled in a 30-day treatment Facility in Ketchikan Alaska, The Carr House. Successfully completed the program. Charges were dismissed."

Affidavit Disclosure 9) Smith also admitted to, June 6, 1980 pleading guilty for MDA (small amount of residual powder).

The small amount of MDA in North Carolina, on June 6, 1980 appears to be a conviction that Ms. Smith admitted to in her affidavit in Affidavit Disclosure 9. Smith also admitted the felony conviction on her application (Section III, third from the last question). In addition, Smith admitted in two interviews that the conviction was a felony, and that she hung around with the wrong people. When told that a felony conviction would keep her from becoming a fiduciary, Ms. Smith stated she did not think that her 1980 Poss. MDA conviction was a felony. Staff has not found conclusive documentary proof that the conviction was a felony. The FBI fingerprint report indicates that it was originally a felony, but the disposition is unclear. The document from the courthouse indicates that she was guilty, but does not indicate the crime was a felony conviction. Ms. Smith has twice admitted the conviction was a felony.

Ms. Smith admitted in her affidavit to driving while intoxicated with her son in the vehicle. She was pulled over. Ms. Smith violated ACJA § 7-201 (E)(2)(c)(2)(b)(iii):

Has conduct showing the applicant or an officer, director, partner, member, trustee, or manager of the applicant is incompetent or a source of injury and loss to the public;

Ms. Smith admitted to theft and was convicted of theft in 1989. Ms. Smith violated ACJA § 7-201 (E)(2)(c)(2)(b)(v)

Has a conviction by final judgment of a misdemeanor if the crime has a reasonable relationship to the practice of the certified profession or occupation, regardless of whether civil rights have been restored; Also, Division, through background, found Smith had not disclosed her past, until asked.

Ms. Smith acknowledged she has been convicted of a felony. Ms. Smith violated ACJA § 7-201(E)(1)(A)(c)(3):

An applicant for licensure must: Not have been convicted of a felony. An applicant convicted of a felony must be denied certification.

Ms. Smith did not give Division an Affidavit, until asked. Ms. Smith violated ACJA § 7-201(E)(2)(c)(2)(b)(xv):

Failed to disclose information on the certification application subsequently revealed through the background check.

Division recommends denial of licensure for Pamela Ann Smith.

FIDUCIARY BOARD

Agenda Summary – Thursday, January 11, 2018

4) RENEWAL OF LICENSURE APPLICATIONS

4-A: Review, discussion and possible action regarding the application for renewal of individual licensure for Patricia Hall.

Patricia Hall applied for renewal of her individual fiduciary license. On May 23, 2016 Ms. Hall submitted an incomplete application to the Certification and Licensing Division. Ms. Hall failed to provide answers to multiple questions on the application including to whether she had completed the required hours of continuing education (CE) credits. Ms. Hall did initially respond to the deficient questions and stated that she did not complete the required continuing education “due to a very limited budget” and “I was preparing to retire.” Based on her responses, Division could not accurately gauge the CE deficiency for Ms. Hall and sent her a CE audit request. Division made numerous attempts requesting the CE audit. Emails requesting the information were sent by Division Staff on June 19, 2017 and July 3, 2017. Division also sent a letter by mail on August 28, 2017. Ms. Hall has failed to properly respond to any of these communication requests from Division Staff.

At the November 16, 2017 Board meeting, pursuant to ACJA § 7-201(H)(6)(c), the Board voted to require Ms. Hall appear at the next Board meeting for a Board interview to address with the Board the status of her application, failures to provide information and the current status of the Apache County Public Fiduciary Office of which Ms. Hall is currently identified as the Public Fiduciary.

Following noticing Ms. Hall of the Board’s decision, on December 26, 2017, Division received a letter from Ms. Hall stating, “I feel that it is not necessary for me to appear before the Board on January 11, 2018, because Ms. Stallings received her Fiduciary license on May 11, 2017, and is currently working as the Apache County Public Fiduciary. I am not planning to reapply as a public fiduciary.”

Ms. Hall also stated in that letter, “I would like to explain the situation that has led to my decision of not renewing my license.” As of this date, Ms. Hall still holds a valid individual fiduciary license and did submit an individual renewal application for the 2016-2018 fiduciary renewal cycle. In submitting that renewal application there are certain roles and responsibilities that licensees are expected to uphold, including the completion of the mandatory continuing education and responding to the Board and Division in a timely manner. Ms. Hall failed to do both.

Division recommends the denial of Ms. Hall's renewal of individual fiduciary license, pursuant to ACJA § 7-201(H)(6)(c) for failing to respond to multiple communications from Division Staff and ACJA § 7-201 (H)(6)(a), for failing to complete her mandated continuing education.

ACJA 7-201(H)(6)(c):

Failed to cooperate with or supply information to the director, deputy director, division staff or board by the specific time stated in any request;

ACJA 7-201(H)(6)(a):

Failed to perform any duty to discharge any obligation in the course of the certificate holder's responsibilities as required by law, court rules, this section or the applicable section of the ACJA.